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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,098	01/18/2002	Yuko Tsusaka	2002_0045A	6545
52349 7590 08/20/2008 WENDEROTH, LIND & PONACK L.L.P. 2033 K. STREET, NW SUITE 800 WASHINGTON, DC 20006				
EXAMINER				
SHANG, ANNAN Q				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/050,098

Applicant(s)

TSUSAKA ET AL.

Examiner

ANNAN Q. SHANG

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/28/08 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claims 1-21, rejected under 35 U.S.C. 103(a) as being unpatentable over **Russo (5,619,247)** in view of **Christopoulos et al (2001/0047517)**, applicant amends claims and argues that the prior art of records do not teach the amended claim limitations (see page 9+ of Applicant's Remarks).

In response, Examiner disagrees. Examiner notes applicant's arguments, however, Russo teaches all the claim limitations as discussed with respect to the rejection below including charging fees based a user input preferences as to quality of reproduction or specific preference (col.6, line 63-col.7, line 23), but silent to where the reproduction control section reset the flag when the billing conditions contained in the management data are satisfied at a time when the content with the predetermined

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special effect to the portion of the content is being reproduced (real time) in accordance with the specific data, i.e., the claimed "...reproduce the content with the predetermined special effect in accordance with the specific data if the flag is on, and to reproduce the content without the predetermined special effect in accordance with specific data if the flag is off and where the flag becomes off, when the flag is on and the billing conditions contained in the management data are satisfied." However, **Christopoulos**, discloses method and apparatus for intelligent transcoding of multimedia data, storing contents and hints or specific data as a pair, restricting a produced substance of the content., etc., and further discloses monitoring the client/device conditions or status information in real time to applied in real time during reproduction of the content, transcoding hints, based on the client/device status, state or conditions during the production of the content (page 2, [0035-0036], [0039-0040], [0046] and [0048]). Hence the amended claims do not overcome the prior arts of record. The amendment to the claims necessitated the new ground(s) of rejection discussed below in the office action. **This office action is non-final.**

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russo (5,619,247)** in view of **Christopoulos et al (2001/0047517)**.

As to claims 1-3, note the **Russo** reference figures 1-5, discloses stored program pay-per-play and further discloses a contents distribution system (figs.1 and 2) for distributing a content including video and/or music data from a contents distribution apparatus to a terminal device (Cable box 'CB' 4/Controller 10) via a network, where the contents distribution apparatus (figs.1 and 2) comprises:

A content storage section (inherent to Cable Provider 'CP') operable to store content and specific data concerning a predetermined specific effect to be applied to a portion of the content and to impede reproduction of an original substance of the portion of the content (figs.1, 2, col.1, lines 12-42, col.3, line 40-col.4, line 27 and line 45-col.5, line 10), the content and the specific data being stored as a pair;

A content management data setting section (CP management) operable to set management data, where the management data at least contains a flag indicating whether or not to apply the predetermined special effect to the portion of the content during reproduction, and billing conditions which need to be satisfied in order to reproduce the portion of the content without the predetermined special effect (col.6, line 33-col.7, line 23 and col.10, lines 10-21); and

A transmission section (CP Transmitter) operable to transmit the content, the specific data, and the management data to the terminal device (col.1, lines 12-42, col.3, line 40-col.4, line 27 and line 45-col.5, line 10), where the terminal device (C-10) comprise:

A reception section (figs.1 and 2) operable to receive the content, the specific data, and the management data from the transmission section (figs.1, 2, col.3, line 40-col.4, line 27 and line 45-col.5, line 10); and

Reproduction control section (C-10), operable to reset the flag when the billing conditions contained in the management data are satisfied and to reproduce the content with or without the predetermined special effect to the portion of the content in accordance with the specific data (col.4, line 45-col.5, line 10, col.6, line 33-col.7, line 23 and col.10, lines 10-21).

Russo teaches storing different quality based upon input criteria and charges fee based upon the input preferences, but silent to storing the content and the specific data as a pair and resetting the flag, if the client meets some conditions or the client status changes, during the reproduction of the content and the special effects, i.e., the claimed "...reproduce the content with the predetermined special effect in accordance with the specific data if the flag is on, and to reproduce the content without the predetermined special effect in accordance with specific data if the flag is off and where the flag becomes off, when the flag is on and the billing conditions contained in the management data are satisfied."

However, note the **Christopoulos** reference figures 1-5, discloses method and apparatus for intelligent transcoding of multimedia data and further teaches storing contents and hints or specific data as a pair and transmitting to a client device, where the client device, stores the content and hints as pair for reproduction in accordance with the type and the portion specified by the attribute data and further restrict a

produced substance of the content and applying the transcoding hints in real time during reproduction (page 2, [0035-0036], [0039-0040], [0046] and [0048]), note that the gateway or transcoder can reside in the server or the client

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Christopoulos into the system of Russo in order to allow the client device to store the content and hints and dynamically modify the content with the hints data in real time if the status or conditions of the client devices changes without having to communicate upgrade features back to the server.

As to claims 4-5, Russo, further discloses where the content distribution apparatus further comprises a content selection section operable to select, as the specific data, either special effects data which is generated based on information concerning a type of the predetermined special effect and a portion of the content to apply the predetermined special effect to, or attribute data consisting of the information concerning the type and the portion, such that the special effects data is selected for the terminal device having a relatively low processing ability and the attribute data is selected for the terminal device having a relatively high processing ability and associate flags necessary to upgrade the content with predetermined special effects (col.2, lines 18-52), but fails to explicitly teach where the reproduction control section in the terminal device having a relatively low processing ability reproduces the content by applying the special effects data to the content base on the terminal capabilities and utilizing further data to generate special effects data in accordance with the type and the portion specified by the attribute data which are previously stored in the reproduction control

section for realizing special effects and reproducing the content by applying the special effects data to the content.

However, Christopoulos further teaches a client device, which applies special effects to content based on the client's device capabilities as supplied by the client device (page 2, [0035-0036], [0039-0040], [0046] and [0048]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Christopoulos into the system of Russo in order to provide service to various type of client devices based on their capabilities and furthermore apply the special effects to the content based on the client's device capabilities.

Claim 6 is met as previously discussed with respect to claim 1.

As to claim 7, Russo further discloses where the contents distribution apparatus further comprises a distribution content reproduction confirmation section operable to reproduce for confirmation the content with or without the predetermined special effect in accordance with the flag in the management data set by the content management data setting section (col.6, line 63-col.7, line 23 and col.8, line 55-col.9, line 10).

As to claims 8-10, the claimed "A contents distribution method for distributing a content including video and/or music data..." is composed of the same structural elements that were discussed in the rejection of claims 1-3.

Claims 11-12 are met as previously discussed with respect to claims 4-5.

Claim 13 is met as previously discussed with respect to claim 6.

Claim 14 is met as previously discussed with respect to claim 7.

As to claims 15-17, the claimed "A contents distribution apparatus for distributing a content including video and/or music data..." is composed of the same structural elements that were discussed in the rejection of claims 1-3.

Claims 18-19 are met as previously discussed with respect to claims 4-5.

Claim 20 is met as previously discussed with respect to claim 6.

Claim 21 is met as previously discussed with respect to claim 7.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/

Primary Examiner, Art Unit 2623

Annan Q. Shang